

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM MARCH 11, 2009
OPEN SESSION

MINUTES OF MARCH 11, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, PAT MANUEL, AND ERIC SKRMETTA. ALSO PRESENT WAS LAWRENCE C. ST BLANC.

Open Session of March 11, 2009, convening at 9:45 A.M. and adjourning at 1:58 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Lawrence C. St. Blanc.

Ex. 1 Announcements

Executive Counsel Eve Gonzalez announced that this will be Staff Attorney Matt Loftus's last B&E, as he has taken a position in Minnesota. Commissioner Field thanked Mr. Loftus for his dedicated service to the Commission and to the State of Louisiana.

Commissioner Boissiere announced that Public Service Commission candidate Clyde Holloway was in the audience.

Ex. 2 **U-30187** – Louisiana Public Service Commission, ex parte. In re: Determination of Plaisance Development Corporation's exempt status from the years 2004 to 2007 in accordance with Commission General Order dated July 9, 2004.

In re: Request for Immediate Review of Interlocutory Ruling.

PASSED

Ex. 3 **U-30689** - CLECO Power, L.L.C. Application of Cleco Power, LLC for: 1) implementation of changes in rates and Formula Rate Plan to be effective upon the commercial operation date of Rodemacher Power Station Unit No. 3 (RPS-3); 2) favorable public interest determination for transmission upgrades in the Acadiana Load Pocket; and 3) renewal of transaction guidelines applicable to certain economy power purchases from Acadia Power Partners, LLC.

In re: Request for expansion of budget for Exeter Associates, Inc. to allow recovery of costs associated with assistance with ancillary proceedings related to the CLECO rate case proceeding.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve Exeter Associate's proposed additional budget in this Docket of \$82,500.

Ex. 4 **U-29764** - Louisiana Public Service Commission, ex parte. In re: Entergy Louisiana, LLC and Entergy Gulf States, Inc., retail proceeding to estimate and implement in retail rates in 2007 the rough equalization impact of FERC Opinions No. 480 and 480-A, FERC Docket EL 01-88-000, LPSC vs. Entergy Corp.

Last month's Ex. 4

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Final Recommendation of the Administrative Law Judge in Docket No. U-29764 subject to one modification, which is the elimination of the ALJ's proposed requirement for seventy-five (75) days prior notice to the Commission of changes in accounting that could modify the equalization computation. In lieu of that requirement, Entergy Louisiana (ELL) and Entergy Gulf States (EGSL) shall be required to provide the Commission with notice within thirty (30) days, but in no event later than March 1, following any correcting entry change in accounting for cost items that are included in the System Agreement production cost remedy payment calculation. Changes to which this reporting requirement applies are

changes in the account to which types of costs, or categories of costs, are recorded, from a FERC account within the bandwidth formula to a FERC account outside the formula, or vice-versa. It shall not apply to corrections in the amounts of costs recorded if there is no change in the cost category recorded in the account.

Ex. 5 **U-21453, U-20925, and U-22092 (Subdocket J)** – Entergy Gulf States, Inc., ex parte. In re: Request for the approval of the Jurisdictional Separation Plan for Entergy Gulf States, Inc.

In re: Motion of the Louisiana Public Service Commission Staff to Enforce Order No. U-21453, U-20925 and U-22092 (Subdocket-J) with respect to the accounting for the Spindletop Gas Storage Facility.

Last month's Ex. 8

PULLED

Ex. 6 **U-28513** – Energy America, ex parte. In Re: Complaint against Entergy Louisiana, Inc. regarding the application of its Large Economic Expansion Service Rider Schedule 3 to its Large Industrial Power Service Rate Schedule LIPS-16

In re: Request for Rehearing

In re: Discussion and Possible vote to hire an outside consultant for under \$50,000.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and hire Henderson Ridge Consulting for a budget of \$12,750, with expenses not to exceed \$1500. The Commission further voted to make the following clarifications: 1) The time period for the rate recalculation for Orion is from July of 2000 through May of 2003 (or the date upon which Orion declared bankruptcy). In addition, Henderson Ridge shall review the record of Docket No. U-22801 in order to determine whether Entergy and/or counsel for Star Enterprise, L.L.C./Energy America asserted conflicting positions with respect to the calculation of rates pursuant to the LEE Rider and LIPS Rate Schedule; 2) No discovery or hearing procedures will be allowed for rate recalculation purposes. Henderson Ridge Consulting shall provide a report regarding its recalculation, specifying what documents it relied upon in order to perform the rate recalculation, on or before April 3, 2009. Both Energy America, L.L.C. and Entergy Louisiana, LLC will be allowed to ask reasonable questions of Mr. William Barta at the April 2009 Business and Executive Session specifically relating to the recalculation and information provided in Mr. Barta's report; 3) Energy America's arguments against rehearing Order No. U-28513-C are hereby rejected as a limited rehearing was already granted at the February 2009 Business and Executive Session.

Ex. 7 **U-28805 Sub B** – Entergy Gulf States, LLC, ex parte. In re: Application of Entergy Gulf States, L.L.C. for authorization to participate in a contract for the purchase of capacity and electric power from Calpine Energy Services, L.P. and Carville Energy Center, L.L.C.

In re: Possible certification of Carville Purchase Power Agreement.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation with one condition, and that is that the Commission's Order shall become null and void unless, within five (5) days after expiration of all available appeal periods from the effective date of this Order with no appeals having been filed that contest any aspect of the Order, Calpine Energy Services, L.P., Carville Energy Center, LLC and Carville Energy, LLC (collectively, "Calpine") and the LPSC take all reasonable action to request and obtain dismissal, with prejudice, of all of Calpine's claims against the LPSC in the currently-pending proceeding entitled, "Carville Energy, LLC. v. Entergy Louisiana, LLC, et al," Case No. 06-903, United States District Court for the Middle District of Louisiana (previously consolidated with Occidental Chemical Corp. v. Louisiana Public Service Commission, No. 06-894).

The request seeking dismissal shall release and discharge the LPSC of, and from, any and all claims that Calpine has, or may have had, against the LPSC arising out of, or in any manner connected with or related to, the events, facts, transactions, or occurrences alleged in the matter identified in Case No. 06-903, described above, including without limitation any demands,

causes of action, damages, and liabilities of every kind and character, whether now known or hereafter discovered, whether anticipated or unanticipated that Calpine has, or could have asserted, against the LPSC in Case No. 06-903. In the event that Calpine's claims in the proceeding pending in the United States District Court for the Middle District of Louisiana are not dismissed with prejudice as provided above, this Commission Order shall become null and void.

The Commission hereby directs the LPSC Staff and Outside Counsel to take whatever actions are necessary and to fully cooperate with Calpine in order to have Calpine's claims against the LPSC dismissed by the United States District Court for the Middle District of Louisiana in the above-referenced docket, subject to the above and foregoing provisions.

Ex. 8 **S-30869 - CenturyTel, Inc. and Embarq Corporation, ex parte.** In re: Request for a letter of non-opposition to the indirect transfer of control between CenturyTel, Inc. and Embarq Corporation.

On motion of Commissioner Campbell, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue its non-opposition to the transaction as proposed, with the standard condition placed on all letters of non-opposition that this statement of non-opposition of the Commission is done without prejudice to the authority of the Commission to make investigations and require any reasonably necessary change it may legally find to be in the public interest, conditioned upon the inclusion of a favored-nation clause, and subject to the condition that any subsequent changes to the post-merger company or its affiliates will require the Commission's additional non-opposition.

Ex. 9 **R-30738 – Louisiana Public Service Commission, ex parte.** In re: Identification of Regulatory Obstacles to Merchant Transmission Investment in Louisiana and Analysis and Recommendation of Potential Regulatory Framework Governing Merchant Transmission Investment in Louisiana.

In re: Possible hiring of Kennedy and Associates, Exeter Associates, Inc. and Stone Pigman Walther Wittmann L.L.C. in order to assist the Staff in participating and monitoring Entergy's ICT's Attachment K and ISTEP processes.

On motion of Commissioner Field, seconded by Commissioner Campbell, with Commissioners Boissiere and Manuel concurring and Commissioner Skrmetta dissenting, the Commission voted to accept the Staff Recommendation and hire the following firms in conformity with the scope of work set forth in their respective budget letters: 1) Stone Pigman: Stone Pigman has submitted a budget of \$149,000, with expenses not to exceed \$28,000.00. 2) Exeter: Exeter has submitted a budget of \$74,000 with expenses not to exceed 10%. 3) Kennedy: Kennedy has submitted a budget of \$74,000 with expenses not to exceed 15%. 4) Patterson Consulting: Mr. Kirk P. Patterson submitted a budget of \$80,000 with expenses not to exceed \$9,000.00, and that Dockets R-30738, U-23356 Sub-A, U-27136, and U-28155 be consolidated.

Commissioner Field announced in order to make the logistics easier on all the parties, the Commission has requested that FERC host the multi-jurisdictional ISTEP conference in conjunction with the SEARUC Annual Convention, which is scheduled for Charleston, SC in late June.

Commissioner Field also announced that on the morning of April 21, the Commission has tentatively scheduled a technical conference to provide a forum to discuss the Webre-Wells upgrade, the one Louisiana-sited economic upgrade identified through the ISTEP process and on the afternoon of April 21 the ICT Base Plan/Entergy Construction Plan technical conference will take place.

Ex. 10 **R-29380 Sub A – Louisiana Public Service Commission, ex parte.** In re: Implementation, ratemaking treatment, and incentive issues of environmental legislation and environmental costs.

In re: Discussion and possible vote on Staff's Final Recommendation.

PASSED

Ex. 11 Consideration and possible vote of rule regarding Commissioners' right to place items on Agenda.

Commissioner Campbell offered a motion which provides that a Commissioner may add both docketed and undocketed items to the initial and supplemental Commission meeting agendas. However, no item can be added after the issuance of the supplemental Commission meeting agenda on the Friday before the Commission meeting, unless the item has been approved by the Commission Chairman.

Commissioner Field seconded the motion with the following amendments: that any Commissioner be allowed to place an item on the agenda at his or her discretion. However, the chairman shall have the right to note on the agenda, by noon on the Friday before the Open Session, that the discussion concerning a particular agenda item shall be limited to 10 minutes, unless a second Commissioner requests at the Open Session that the discussion be continued.

Commissioner's Campbell's motion, including Commissioner Field's amendments, was called to a vote by Chairman Boissiere. Commissioners Manuel, Skrmetta and Boissiere voted to deny the Motion and Commissioners Campbell and Field voted in favor.

- Ex. 12
- 1) Reports
 - 2) Resolutions
 - 3) Discussions

Special Counsel Mike Fonham reported on the status of cases pending at the Federal Energy Regulatory Commission and the United States Court of Appeals for the District of Columbia Circuit related to the rough equalization bandwidth payments under the Entergy System Agreement, including the payments that may be received in 2009 and other matters under litigation.

- Ex. 13
- T-30628** - Dual Trucking, Inc. (Scott, Louisiana), ex parte. In re: Application of Dual Trucking, Inc, LPSC No. 5151-I to amend tariff No. 1 (Vacuum Trucks), by increasing the rate from \$70.00 per hour to \$75.00 per hour for an approximate increase of seven (7%) percent.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and 1) Grant the Company the requested increase, that is, that the hourly rate for vacuum truck services be increased from \$70.00 to \$75.00 for an increase of \$5.00 per hour or 7.14%. 2) Order the Company to separate LPSC regulated and non-regulated revenue for regulatory purposes. 3) Order the Company to send a copy of the revised tariff to the LPSC Transportation Department to be published on the Commission website.

- Ex. 14
- T-30897** - Louisiana Public Service Commission vs Christian Movers of Baton Rouge (Baton Rouge, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority, and a violation of La. R.S. 45:164 E (1), by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164 E (1).

At the request of Commissioner Manuel.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, agreed to a fine of \$500.00, with \$250.00 suspended, and agreed to pay a citation fee of \$25.00, said fine and citation fee to be paid within 15 days of the issuance of the Order herein and further agreed that the amount suspended was on the condition of no additional violations within 12 months of the issuance of the Order.

- Ex. 15
- T-30901** - Louisiana Public Service Commission vs Jessie Baugh And Baugh Transfer & Moving Co. (Baton Rouge, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority, and a violation of La. R.S. 45:164 E (1), by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164 E (1).

At the request of Commissioner Manuel.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, agreed to a fine of \$500.00, with \$250.00 suspended, fine to be paid within 15 days of the issuance of the Order herein and further agreed that the amount suspended was on the condition of no additional violations within 12 months of the issuance of the Order and that the Carrier apply for Commission authority within one month.

Ex. 16 **S-30601** – ABC Telcom, Inc. d/b/a Homefone, ex parte. In re: Application for designation as an eligible telecommunications carrier.

In re: ABC's request to modify effective date of Order S-30601.

At the request of Commissioner Boissiere.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and re-issue Order S-30601 with an effective date of November 12, 2008 so that ABC may be reimbursed for the credits it has provided.

Ex. 17 **S-30915** – Delcambre Telephone Company, LLC, ex parte. In re: Petition and Request for Interim Relief and Temporary Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as Amended.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the suspension as request by Delcambre, pursuant to Section 251(f)(2) of the Act. It was further ordered that Delcambre provide quarterly updates detailing any customer and/or carrier inquiries for wireline to wireless portability it receives.

Ex. 18 **U-30185** - NPCR, Inc. d/b/a Nextel Partners, ex parte. In re: Petition for Approval of Nextel Partners' Adoption of the Interconnection Agreement between Sprint Communications Company L.P., Sprint Spectrum L.P. d/b/a Sprint PCS and BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana d/b/a AT&T Southeast. **CONSOLIDATED WITH**
U-30186 - Nextel South Corp., ex parte. In re: Petition for Approval of Nextel South Corp's Adoption of the Interconnection Agreement between Sprint Communications Company L.P., Sprint Spectrum L.P. d/b/a Sprint PCS and BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana d/b/a AT&T Southeast.

At the request of Commissioner Manuel.

On motion of Commissioner Manuel, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to adopt the Final Recommendation of the Administrative Law Judge with the modification that the effective date of Nextel's adoption of the Sprint interconnection agreement be March 3, 2008, not June 27, 2007, as recommended by the ALJ.

Ex. 19 Dixie Electric Membership Corporation, ex parte. In re: Request for Louisiana Public Service Commission approval to establish a regulatory mechanism related to all costs of the December 2008 winter storm.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve DEMCO's request to defer all of the costs incurred in connection with storm repair and restoration borrowings for the 2008 Winter Storm and to designate these deferred costs as a regulatory asset and that such approval be subject to the conditions read into the record.

Ex. 20 **U-30192** - Entergy Louisiana, LLC, ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Repower Little Gypsy Unit 3 Electric Generating Facility and for Authority to Commence Construction and for Certain Cost Protection and Cost Recovery.

In re: Discussion and possible vote on a temporary suspension of the Little Gypsy Repowering Project to permit further analysis of the project's viability.

At the request of Commissioner Boissiere.

On motion of Commissioner Boissiere, seconded by Commissioner Field, and unanimously adopted, the Commission voted to direct Entergy Louisiana, LLC to immediately suspend, to the extent possible, on a temporary basis, the Repowering Project and take the steps reasonably necessary to minimize project spending during the period of suspension. It is understood that ELL has issued letters formally suspending certain contracts associated with the Repowering Project. It is further directed that these suspensions shall remain in place during the period of suspension.

ELL is directed to continue to review the current economics of the Repowering Project and develop a recommendation regarding whether it is appropriate for ELL to make a filing with the Commission to formally delay the Repowering Project for an extended time.

By no later than the April 2009 B&E session, ELL shall inform the Commission whether ELL intends to make such a filing.

Ex. 21 Lake Charles Cogeneration, LLC's Offer to Sell Synthetic Natural Gas to LPSC-Jurisdictional Utilities: Report from Atmos, CenterPoint, Cleco, and Entergy Regarding Their Respective Evaluations of the Potential Ratepayer Effects.

At the request of Commissioner Field.

After a lengthy discussion with several industry representatives, Commissioner Campbell made a motion to open a docket to evaluate LCC's offer to sell synthetic natural gas to LPSC-jurisdictional utilities. Commissioner Field seconded the motion with the condition that LCC agree to pay any outside consultant and/or counsel fees and LCC agree that this will not set any precedents for future matters. Commissioner Skrmetta objected to this motion.

Commissioner Campbell subsequently withdrew his motion and directed the companies to come back in 30 days with the status of any ongoing discussions between the parties. Commissioner Field withdrew his second.

Ex. 22 Confidentiality agreement for the execution by staff with regard to executive session.

At the request of Commissioner Skrmetta.

On motion of Commissioner Skrmetta, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to adopt a new rule in which all Commissioner Executive Assistants shall be required to execute a confidentiality/non-disclosure agreement that will survive their employment with the Commission before they are allowed to attend a Commission Executive Session held pursuant to La. R.S. 42:6.1. However, the Commission reserves the right to exclude any Staff member from an Executive Session if it so chooses. This new rule does not affect in any way the Commission's current procedures conducted in accordance with Commission Rule 12.1.

Ex. 23 **R-28271 Sub B** - Louisiana Public Service Commission, ex parte. In re: Re-study of the feasibility of a renewable portfolio standard for the State of Louisiana.

In re: Discussion and possible vote to approve budget and scope of work submitted by J. Kennedy and Associates, Inc.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve Kennedy's

budget proposal of \$125,000 with expenses not to exceed 15% to continue its representation of the Commission and assist staff in the re-study of the renewable portfolio standard for Louisiana.

Ex. 24 **S-30928** - Pointe Coupee Electric Membership Corporation, ex parte. In re: Request for a letter of non-opposition to a new line of credit with CoBANK, ACB.

At the request of Commissioner Manuel.

On motion of Commissioner Manuel, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue the letter of non-opposition subject to the conditions read into the record.

MEETING ADJOURNED

The next Business and Executive Session will be held April 8, 2009 at 9:00 a.m. in Baton Rouge, Louisiana.